

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

GLEN ALAN PUTNAM,

CV. 07-384-KI

Plaintiff,

PRO SE PRISONER
ADVICE ORDER

v.

BRIAN BELLEQUE, et al.,

Defendants.

KING, Judge

The defendants have filed an amended motion to dismiss (#42) pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, on the ground that you have not exhausted your administrative remedies. The motion will, if granted, end your case.

When a party you are suing makes a motion to dismiss for failure to exhaust, and that motion is properly supported by declarations (or other sworn testimony) and/or documents, you cannot simply rely on what your complaint says. Instead, you must set out specific facts in declarations, depositions, answers to interrogatories, or documents, that contradict the facts shown in the defendant's declarations and documents and show that you have

in fact exhausted your claims. If you do not submit your own evidence in opposition, and the defendant's evidence establishes that you did not exhaust your administrative remedies, the motion to dismiss will be granted, your case will be dismissed, and there will be no trial.

CONCLUSION

Plaintiff's motion for extension of time to file his opposition to defendants' motion to dismiss (#49) is GRANTED. Plaintiff shall file his opposition on or before May 30, 2008. Defendants may file a reply by June 13, 2008. Defendants' amended motion to dismiss (#42) shall be taken UNDER ADVISEMENT on June 16, 2008.

IT IF FURTHER ORDERED that defendants' original motion to dismiss (#36) and motion for extension of time (#47) are DENIED AS MOOT.

IT IS SO ORDERED.

DATED this 19th day of May, 2008.

/s/ Garr M. King
Garr M. King
United States District Judge